

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13581 OF 2021

Saudagar Raeesabano Azimoddin	 Petitioner
Versus	
Vishnu S/o Pandharinath Sathe	
and others	 Respondents

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Mr. G.R.Syed, Advocate for the Petitioner
Mr. Manoj Shinde, Advocate for Respondent Nos.1, 2, 5, 6 to 12
Mr. R.R. Deshmukh, Advocate h/f Mr. R.B. Deshmukh, Advocate
for Respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 21st MARCH, 2023

ORDER :

1. The petitioner is aggrieved by the order passed by the learned Civil Judge, Senior Division, Latur, below Exhibit-57 in Regular Civil Suit No.418 of 2016, thereby rejected the application filed by the petitioner/plaintiff under Order VI Rule 17 of the Code of Civil Procedure.

2. The suit is filed by the plaintiff for possession of suit property i.e. plot No.4 and eastern half portion of plot No.3 jointly admeasuring east-west 45 feet, south-north eastern side 50 feet and western side 40 feet bearing *Grampanchayat* No.1722 of village Pakharsangvi, Taluka and District Latur.

3. During the pendency of suit, application below Exhibit-57 is moved by the plaintiff contending that during the

pendency of suit defendant No.1 illegally alienated suit property in favour of Dinesh Shankarrao Sathe by registered sale deed dated 26/10/2016, and thereafter, Dinesh Sathe alienated said property without any right, in favour of Sangita Harihar Sarang by registered sale deed dated 01/09/2018. Since both these sale deeds are executed during the pendency of the suit, the plaintiff may be permitted to add the subsequent purchasers as defendant Nos. 13 and 14, and a prayer that the said sale deeds are not binding on the plaintiff.

4. The application was opposed by the defendants claiming that the claim of the plaintiff is in respect of suit property at village Pakharsangvi, whereas defendants are owner and possessor of Gut No.85 of village Warvanti, Taluka and District Latur, and they have sold the said property. The plaintiff has no concerned with the said property.

5. The trial Court has rejected the application holding that the plaintiff is not concerned with the properties of defendants at Warvanti. The transfer during the pendency of suit is subject to decision of suit. Therefore, there is no need to incorporate purchasers of the properties of the defendants from village Warvanti.

6. Having heard the learned advocate for the petitioner and the learned advocate for the respondents and after going through grounds raised in the petition, documents placed on record and the impugned order, this Court is of the view that there is no illegality or perversity in the order impugned in the present petition.

7. Admittedly, the plaintiff has claimed relief in respect of properties at Pakharsangvi. The trial Court has passed a well reasoned order by observing that the plaintiff is not concerned with the properties of the defendants at post Warvanti.

8. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioner to warrant exercise of extraordinary writ jurisdiction.

9. The writ petition being devoid merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane